

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

In re:

The Financial Oversight and Management Board for Puerto Rico,

as representative of

The Commonwealth of Puerto Rico, *et al.*,

Debtors.<sup>1</sup>

PROMESA  
Title III

No. 17 BK 3283-LTS

In re:

The Financial Oversight and Management Board for Puerto Rico,

as representative of

The Puerto Rico Electric Power Authority,

Debtor.

PROMESA  
Title III

No. 17 BK 4780-LTS

**This Document Relates Only to  
PREPA/Case No. 17 BK 4780-LTS**

**RESERVATION OF RIGHTS OF PREPA BOND TRUSTEE REGARDING  
MOTION FOR RELEASE OF INSURANCE PROCEEDS FOR EARTHQUAKE LOSSES**

U.S. Bank National Association, solely in its capacity as trustee (the “PREPA Bond Trustee”) under the Trust Agreement dated as of January 1, 1974, between the Puerto Rico Electric

<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19 BK 5523-LTS) (Last Four Digits of Federal Tax ID: 3801); and (vi) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Power Authority and the PREPA Bond Trustee (the “Trust Agreement”), hereby files this reservation of rights (the “Reservation”) with respect to the *Motion of Financial Oversight and Management Board for Puerto Rico and Puerto Rico Electric Power Authority for Release of Insurance Proceeds for Earthquake Losses* [Dkt. No. 13097 in 17-BK-3283 and Dkt. No. 1987 in 17-BK-4780]] (the “Motion”).<sup>2</sup> In support of this Reservation, the PREPA Bond Trustee states as follows:

1. In the Motion, the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”) and PREPA seek a comfort order to facilitate an agreement reached with certain property insurers (the “Insurers”) regarding an immediate advance payment of \$25,000,000 (the “Advance Payment”) to PREPA as payment for insurance proceeds under certain commercial property insurance policies issued to PREPA by the Insurers for the policy period May 31, 2019 to May 31, 2020 (the “Property Insurance”) for PREPA’s earthquake-related property damage losses. The Motion also seeks assurances from the Court that the Advance Payment can be made free from problems relating to the potential claims of PREPA’s creditors. Additionally, the Oversight Board asks the Court to approve PREPA’s proposed procedures to expedite the payment of future payments to PREPA for its earthquake-related losses on account of the Property Insurance (collectively with the Advance Payment, the “Insurance Proceeds”).

2. The Motion is not the first time in this Title III case that PREPA has sought a comfort order and court approved procedures to facilitate the collection of property insurance payments. It filed a similar motion in 2017 relating to payments for hurricane-related losses (the

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<sup>2</sup> Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Motion.

“Prior Insurance Motion”).<sup>3</sup> Following objections to the Prior Insurance Motion by the PREPA Bond Trustee, the Ad Hoc Group of PREPA Bondholders, and the Monolines, a consensual order was entered allowing for the requested comfort to those insurers and process, while preserving the rights and respective legal positions of PREPA, the PREPA Bond Trustee, and the Bondholders under the Trust Agreement and related documents. *See Order Granting Urgent Joint Motion of Financial Oversight and Management Board for Puerto Rico, and the Puerto Rico Fiscal Agency and Financial Advisory Authority for Order Concerning Receipt and Use of Puerto Rico Electric Power Authority Insurance Proceeds* [Dkt. No. 514] (“Prior Order”).<sup>4</sup>

3. The Motion, much like the Prior Insurance Motion, ignores that the Insurance Proceeds are Revenues and includes statements incorrectly asserting that PREPA has exclusive rights in the Insurance Proceeds, including the Advance Payment. *See, e.g.*, Mot. 2-3. The PREPA Bond Trustee disagrees with these statements regarding the Insurance Proceeds, but, as before, the PREPA Bond Trustee does not object to the essential relief being sought in the Motion.

4. The proposed order submitted for the Motion appropriately provides that the Motion is granted only to the extent set forth in the Order and includes the following language, which provides for the explicit preservation of the respective rights of PREPA, the PREPA Bond Trustee, and the Bondholders:

Except as expressly stated herein, this Order shall not be interpreted to limit any party’s rights and, for the avoidance of doubt, shall not be interpreted to prejudice the rights and interests of holders and/or

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<sup>3</sup> *See Urgent Joint Motion of Financial Oversight and Management Board for Puerto Rico, and the Puerto Rico Fiscal Agency and Financial Advisory Authority for Order Concerning Receipt and Use of Puerto Rico Electric Power Authority Insurance Proceeds* [Dkt. No. 491].

<sup>4</sup> *See Prior Order ¶ 7* “Except as expressly stated herein, this Order shall not be interpreted to limit any party’s rights and, for the avoidance of doubt, shall not be interpreted to prejudice the rights and interests of holders and/or insurers of PREPA’s power revenue bonds. All rights of such parties to take any actions necessary to protect their rights with respect to any action outside the scope of this Order or with respect to any agreement with creditors shall be preserved.”

insurers of PREPA's power revenue bonds. All rights of such parties to take actions necessary to protect their rights with respect to any action outside the scope of this Order or with respect to any agreement with creditors shall be preserved.

5. This limiting language in the proposed order addresses the concerns of the PREPA Bond Trustee noted above in Paragraph 3. To the extent any party objects to this limiting language (or seeks the inclusion of language prejudicing or otherwise affecting the rights of the PREPA Bond Trustee or Bondholders), the PREPA Bond Trustee respectfully reserves the right to be heard at the hearing on the Motion, but does not otherwise object to the Motion.

RESPECTFULLY SUBMITTED, in San Juan, Puerto Rico, on this 20th of May, 2020.

We hereby certify that on this same date we electronically filed the foregoing with the Clerk of the Court using the CM/ECF system of the U.S. Bankruptcy Court for the District of Puerto Rico for Cases No. 17-BK-4780 and No. 17-BK-3283, which will send notification of such filing to all counsel of record participating in the CM/ECF system.

Respectfully submitted:

**RIVERA, TULLA AND FERRER, MASLON LLP  
LLC**

By: s/Iris J. Cabrera-Gomez

Iris J. Cabrera-Gómez  
USDC-DPR No. 221101  
Email: [icabrera@riveratulla.com](mailto:icabrera@riveratulla.com)  
Eric A. Tulla  
USDC-DPR No. 118313  
Email: [etulla@riveratulla.com](mailto:etulla@riveratulla.com)

50 Quisqueya Street  
San Juan, PR 00917-1212  
Tel: (787)753-0438  
Fax: (787)767-5784 (787)766-0409

Respectfully submitted:

By: s/John T. Duffey

William Z. Pentelovitch (admitted *pro hac vice*)  
John T. Duffey (admitted *pro hac vice*)  
Clark T. Whitmore (admitted *pro hac vice*)  
Jason M. Reed (admitted *pro hac vice*)  
90 South Seventh Street, Suite 3300  
Minneapolis, MN 55402  
Telephone: 612-672-8200  
Facsimile: 612-672-8397  
E-Mail: [clark.whitmore@maslon.com](mailto:clark.whitmore@maslon.com)  
[bill.pentlovitch@maslon.com](mailto:bill.pentlovitch@maslon.com)  
[john.duffey@maslon.com](mailto:john.duffey@maslon.com)

**ATTORNEYS FOR U.S. BANK NATIONAL  
ASSOCIATION, IN ITS CAPACITY AS PREPA  
BOND TRUSTEE**